

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #12	CCRB Case #: 201808780	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/25/2017 10:30 PM	Location of Incident: § 87(2)(b); En Route to the 120th Precinct stationhouse; 120th Precinct stationhouse	Precinct: 120	18 Mo. SOL 10/25/2018	EO SOL 10/25/2018	
Date/Time CV Reported Tue, 10/23/2018 10:03 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/23/2018 10:03 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Leonard Mormino	6848	934339	123 DET
2. DT3 Sergio Hernandez	131	926947	123 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SDS Michael Dannecker	01425	923735	123 DET
2. DT3 Frank Lupo	2452	928677	123 DET
3. DT3 Sean Desabato	05144	922245	DB GLD

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Leonard Mormino	Force: On April 25, 2017, at § 87(2)(b), Detective Leonard Mormino used physical force against § 87(2)(b).	
B.DT3 Sergio Hernandez	Force: On April 25, 2017, at § 87(2)(b), Detective Sergio Hernandez used physical force against § 87(2)(b).	
C.DT3 Sergio Hernandez	Off. Language: On April 25, 2017, en route to the 120th Precinct stationhouse, Detective Sergio Hernandez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).	
D.DT3 Sergio Hernandez	Discourtesy: On April 25, 2017, at the 120th Precinct stationhouse, Detective Sergio Hernandez gestured discourteously toward § 87(2)(b).	
E.DT3 Leonard Mormino	Abuse: On April 27, 2017, Detective Leonard Mormino entered § 87(2)(b).	
F.DT3 Leonard Mormino	Abuse: On April 27, 2017, Detective Leonard Mormino searched § 87(2)(b).	

Case Summary

On October 23, 2018, this complaint was submitted to the CCRB via telephone. It was submitted one year, five months, and twenty-eight days after the initial incident date.

At approximately 10:30 p.m. on April 25, 2017, § 87(2)(b) was inside of his home at § 87(2)(b). Detective Leonard Mormino, Detective Sergio Hernandez, Sergeant Michael Dannecker, Detective Frank Lupo, and Detective Sean Desabato of the Staten Island Detective Squad responded to § 87(2)(b)'s home and Detective Mormino knocked on the front door. § 87(2)(b) opened the door and after speaking with Detective Mormino and Detective Hernandez, he extended his arm outside of the threshold of the door. Detective Mormino and Detective Hernandez grabbed § 87(2)(b)'s forearm and pulled him out of his home (**Allegation A: Force:** § 87(2)(g)) (**Allegation B: Force:** § 87(2)(g)). § 87(2)(b) was placed in handcuffs and into a police vehicle. On the drive from § 87(2)(b) to Staten Island, Detective Hernandez said, "It's all about pussy" (**Allegation C: Offensive Language:** § 87(2)(g)). At the 120th Precinct stationhouse, Detective Hernandez allegedly placed his hands over his genitals and said, "It's all about this" (**Allegation D: Discourteous Gesture:** § 87(2)(g)).

On April 27, 2017, Detective Mormino entered and searched § 87(2)(b) pursuant to a search warrant (**Allegation E: Abuse of Authority:** § 87(2)(g)) (**Allegation F: Abuse of Authority:** § 87(2)(g)). § 87(2)(b) ultimately was charged with aggravated harassment and stalking (Board Review 17), and pleaded guilty to one count of disorderly conduct on § 87(2)(b) (Board Review 16).

No video evidence was obtained for this case.

Findings and Recommendations

Allegation A – Force: On April 25, 2017, at § 87(2)(b)

Detective Leonard Mormino used physical force against § 87(2)(b)

Allegation B – Force: On April 25, 2017, at § 87(2)(b)

Detective Sergio Hernandez used physical force against § 87(2)(b)

§ 87(2)(b) provided a telephone statement on October 31, 2018 (Board Review 01), was interviewed over the telephone on November 15, 2018 (Board Review 02), provided a written statement on November 17, 2018 (Board Review 03), and provided an additional telephone statement on November 30, 2018 (Board Review 04). § 87(2)(b), § 87(2)(b)'s neighbor, provided a telephone statement on October 31, 2018 (Board Review 05).

The facts of this case are generally undisputed.

§ 87(2)(b) stated that this incident was precipitated by his secret relationship with § 87(2)(b). § 87(2)(b). Following their breakup on February 20, 2017, § 87(2)(b) started a "venting blog" and a "shaming blog" intended to "shame § 87(2)(b) publicly," and began to drink heavily. Over the course of the next two months § 87(2)(b) stopped speaking to § 87(2)(b).

§ 87(2)(b) On April 24, 2017, under the influence of prescription medication and alcohol, § 87(2)(b) repeatedly left voicemail messages on § 87(2)(b) cellphone. In at least one of these voicemail messages, he fired his son's NERF gun, which "sounded like a real gun," as he tried to convey to § 87(2)(b) that he was "thinking about death."

At approximately 10:30 p.m. on April 25, 2017, § 87(2)(b) was asleep in his home at § 87(2)(b) when he was awoken by his wife, § 87(2)(b). She informed him that there were detectives outside who wanted to speak with him. He had continued to drink heavily and abuse prescription medication, and § 87(2)(b) told him that she had been attempting to awake him for approximately half an hour. § 87(2)(b) went to the front door and observed several plainclothes detectives. An officer, identified by the investigation as Detective Hernandez, asked § 87(2)(b) to come outside. § 87(2)(b) refused to come outside. As he continued to speak with the officers, he leaned out of the threshold of the door so that he could hear them more clearly. His left arm moved outside of the threshold of the doorway. Detective Mormino and Detective Hernandez "lunged forward," grabbed his left arm, and pulled the rest of his body out of the house with "extreme force." § 87(2)(b) fell forward out of his home. Detective Mormino and Detective Hernandez grabbed § 87(2)(b) to prevent him from falling directly to the ground. He was placed into handcuffs and ultimately into the back of an unmarked police vehicle.

Sergeant Dannecker was interviewed at the CCRB on March 26, 2019 (Board Review 06). Sergeant Dannecker stated that on either April 23, 2017, or April 24, 2017, he received a call from § 87(2)(b), who stated that his daughter had a complaint about an incident. Sergeant Dannecker and Detective Mormino travelled to the § 87(2)(b) residence and Detective Mormino interviewed § 87(2)(b). She had decided to file a complaint about § 87(2)(b) when earlier that day she thought she observed him outside of her home. She explained that he had been leaving voicemail messages on her phone and had created a blog about her that was "very graphic in detail." The blog contained references to both § 87(2)(b) and § 87(2)(b). One of the voicemail messages contained the sound of the "slide of a gun." § 87(2)(b) recused himself, and Sergeant Dannecker reported directly to the Officer of the Chief of Detectives for the duration of the investigation. Later that day, Sergeant Dannecker called the NYPD Legal Bureau and explained the circumstances around § 87(2)(b) and § 87(2)(b). This included details about the blogs and voicemail messages. The NYPD Legal Bureau informed him that the officers had probable cause to arrest § 87(2)(b). An I-Card was generated, and Sergeant Dannecker believed that the I-Card indicated there was probable cause to arrest § 87(2)(b). At 8:20 p.m. on April 25, 2017, Sergeant Dannecker drove with Detective Mormino and Detective Desabato to § 87(2)(b). Detective Lupu and Detective Hernandez drove to § 87(2)(b) in another vehicle.

Detective Mormino was interviewed at the CCRB on February 6, 2019 (Board Review 07). Detective Mormino stated that on the way to § 87(2)(b) Sergeant Dannecker called § 87(2)(b), and between two and four officers from § 87(2)(b) met them at the first of three listed addresses they had for § 87(2)(b). The first two addresses yielded negative results. At approximately 10:50 p.m. on April 25, 2017, Detective Mormino and the other officers arrived at § 87(2)(b). Detective Mormino went to the threshold of the front door and spoke with § 87(2)(b). She ultimately retrieved § 87(2)(b) from inside of the house. He appeared to have been sleeping and was "a little

groggy.” The officers told him that they needed to talk to him about an incident. He appeared to be apprehensive about speaking to them. He moved as though he was going to walk out of the house. Once he broke the threshold of the door, Detective Mormino grabbed his left forearm and twisted it to pull him out of the house. Another officer, Detective Mormino did not know who, grabbed his right arm. § 87(2)(b) started to resist the officers’ attempt to pull him forward by stiffening his arms and shaking his shoulders to move away from them. This did not prompt the officers to need to use “real physical force” and was only enough to move him away from the house and handcuff him several feet from the door. He was unaware of any injuries cause by this action, and § 87(2)(b) did not complain that he was injured.

Detective Hernandez was interviewed at the CCRB on February 27, 2019 (Board Review 08). Detective Hernandez stated that he was standing nearby when he observed § 87(2)(b) step out of his house “once or twice” as he was speaking to Detective Mormino. When § 87(2)(b) was standing approximately one foot outside of his front door, Detective Mormino reached out and grabbed his forearm. Detective Hernandez did not know which of § 87(2)(b) s forearms Detective Mormino grabbed. § 87(2)(b) pulled his elbow away from Detective Mormino, tucking it in. Detective Hernandez walked toward them to make sure that no one got injured. He did not recall assisting in the handcuffing process, but “it was possible” that he did. § 87(2)(b) was placed into handcuffs and then into a police vehicle.

It is undisputed that § 87(2)(b) did not provide the officers consent to enter his home. However, he extended his arm outside of the threshold of the door, and in the process of arresting § 87(2)(b) Detective Mormino did not enter § 87(2)(b) s house.

§ 87(2)(b) s medical records from the office of § 87(2)(b) show that on § 87(2)(b), § 87(2)(b) complained that he had arm pain stemming from being pulled out of his home four weeks prior (Privileged Medical Records). He was diagnosed with a strain of his right biceps tendon and a strain of his left forearm.

According to Payton v. New York, 445 U.S. 573 (Board Review 09), officers cannot cross the threshold of someone’s front doorway to arrest them without a warrant. According to People v. Gonzalez, 111 A.D.3d 147 (Board Review 10), a person does not enjoy the enhanced constitutional protection of Payton outside of the threshold of the doorway.

According to Patrol Guide Procedure 221-01 (Board Review 11), force may be used by officers when it is reasonable to place a person in custody or to prevent escape from custody, and only to gain control and custody of the subject.

According to Criminal Procedure Law 140.10(3) (Board Review 12), a police officer in New York State may arrest a person for a crime whether or not such crime was committed within the geographical area of such police officer’s employment.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

Allegation C: Offensive Language: On April 25, 2017, en route to the 120th Precinct stationhouse, Detective Sergio Hernandez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

§ 87(2)(b) alleged that during the drive to Staten Island, he overheard Detective Hernandez say something about “roast beef.” § 87(2)(b) asked, “What’s roast beef?” Detective Hernandez replied, “You know what I’m talking about.” § 87(2)(b) replied, “No. I don’t know what you’re talking about.” Detective Hernandez said, “You know what I’m talking about.” § 87(2)(b) said, “No I don’t know anything about roast beef.” Detective Hernandez replied, “Pussy,” and, “It’s all about pussy.” § 87(2)(b) replied, “Okay.” He remembered that “roast beef” was a term that he had heard § 87(2)(b) use to one of her friends once.

During his CCRB interview, Detective Mormino stated that the officers spoke to § 87(2)(b) during the drive to Staten Island and “built a little bit of a rapport” with him. Detective Mormino was asked whether they discussed § 87(2)(b) and he replied, “There may have been mention about it, but I don’t remember. I don’t think we went into details. Obviously, we couldn’t go into details.” Detective Mormino was informed that § 87(2)(b) alleged an officer repeatedly referred to “roast beef” throughout the conversation. Detective Mormino did not remember this happening. Detective Mormino was asked whether an officer said – in reference to § 87(2)(b) s relationship with § 87(2)(b) – “Pussy,” and “It’s all about pussy.” He replied, “I don’t know. It could have. It could have been just regular conversation.”

During his CCRB interview, Detective Hernandez was informed that § 87(2)(b) alleged that he asked, “What’s roast beef?” An officer replied, “You know what I’m talking about,” and an officer ultimately said, “Pussy,” and, “It’s all about pussy.” Detective Hernandez was asked whether he said this and he replied, “I do not recall that at all, no.” He denied hearing the term “roast beef” in the car at any point. He was asked whether he had a conversation with § 87(2)(b) involving the term “roast beef.” He replied, “No. I do not recall that whatsoever.”

According Patrol Guide Procedure 203-10 (Board Review 13), officers are prohibited from using discourteous or disrespectful remarks regarding another person’s gender.

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Discourtesy: On April 25, 2017, at the 120th Precinct stationhouse, Detective Sergio Hernandez gestured discourteously toward § 87(2)(b)

§ 87(2)(b) alleged that when he was interrogated by Detective Mormino and Detective Hernandez inside of the 120th Precinct stationhouse, Detective Hernandez said, “It’s not worth it for this,” placed his thumbs together and his index fingers in a ‘V’ shape that “looked like a vagina,” and placed his hands over his own genitals while maintaining the shape with his hands. He added, “This is all about this.”

During his CCRB interview, Detective Hernandez was informed that § 87(2)(b) alleged that an officer made a gesture with his fingers in front of his genitals by placing his two thumbs together and his two index fingers in a “v shape” that “looked like a vagina,” said, “It’s all about this,” and then placed his hands in front of his genitals. Detective Hernandez denied doing this and did not observe anyone else doing it.

During his CCRB interview, Detective Mormino was informed that § 87(2)(b) alleged that an officer made a gesture in front of his genitals by placing his two thumbs together and his two index fingers in a ‘V’ shape that “looked like a vagina.” Detective Mormino did not know if anyone did this. He denied that he or Detective Hernandez did this.

§ 87(2)(g)

Allegation E: Abuse of Authority: On April 27, 2017, Detective Leonard Mormino entered

§ 87(2)(b) :

Allegation F: Abuse of Authority: On April 27, 2017, Detective Leonard Mormino searched

§ 87(2)(b) :

It is undisputed that on April 27, 2017, officers entered and searched § 87(2)(b) pursuant to a valid search warrant (Board Review 14), issued to Detective Mormino on § 87(2)(b). § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 15).
- Detective Mormino has been a member-of-service for fourteen years and has been a subject of four CCRB complaints and six allegations, none of which have been substantiated. § 87(2)(g)

- Detective Hernandez has been a member-of-service for eighteen years and has been a subject of three CCRB complaints and six allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this case.
- According to the Office of Court Administration (OCA), on § 87(2)(b), § 87(2)(b) pleaded guilty to one count of disorderly conduct regarding his arrest on April 26, 2017 (Board Review 16).
- On March 29, 2019, a Notice of Claim request was submitted to the New York City Comptroller's Office. The results will be added to the case file upon receipt.

Squad 12

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date